

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

MARK BROOKS, : Case No. 3:09-cv-375  
: :  
Plaintiff, : Judge Timothy S. Black  
: Magistrate Judge Michael R. Merz  
vs. : :  
: :  
NATIONAL CITY MORTGAGE, *et al.*, : :  
: :  
Defendants. : :

**DECISION AND ENTRY: (1) ADOPTING THE REPORT AND  
RECOMMENDATIONS OF THE UNITED STATES MAGISTRATE JUDGE  
(Doc. 44); (2) GRANTING DEFENDANTS' MOTION TO DISMISS (Doc. 38); AND  
(3) TERMINATING THIS CASE FROM THE DOCKET**

This case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Michael R. Merz. Pursuant to such reference, the Magistrate Judge reviewed the Complaint filed with this Court, and, on August 31, 2011, submitted a Report and Recommendations. (Doc. 44). No objections were filed.

As required by 29 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Report and Recommendations should be and is hereby adopted in its entirety. Specifically, Count I of the Second Amended Complaint fails to state a claim upon which relief can be granted under the False Claims Act and the Court lacks subject matter jurisdiction as to Count II. Accordingly:

1. Plaintiff's claim for whistle blowing (Count I) is **DISMISSED WITH PREJUDICE**;
2. Plaintiff's claim for interference with prospective business advantage (Count II) is **DISMISSED WITHOUT PREJUDICE**; and
3. This case is terminated from the docket of this Court.

**IT IS SO ORDERED.**

Date: 9/20/11

Timothy S. Black

Timothy S. Black  
United States District Judge